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Remarks:

*Regarding the rejection of claims 1-8, and 10 - 15 under 35 USC 103(a) in view of US 4670916 to Bloom (hereinafter simply "Bloom"), in view of GB 2329399 to Lhoste (hereinafter simply "Lhoste"), and WO 03/042462 to Bariou (hereinafter simply "Bariou"), and US 6625821 to Lhoste (hereinafter simply "Lhoste2")):*

The applicant traverses the Examiner's rejection of the claims in view of the combined references of Bloom, Lhoste, Bariou and Lhoste2 particularly in view of the amended claims presented in this paper. As is noted therefrom the claims have been limited to a configuration of a device (claim 1) and process (claim 10) of using the device in a cistern (viz., "tank") of a toilet bowl. This limitation removes the claimed configuration and use of these claimed device/process wherein the device is suspended from the rim of the bowl part of a toilet bowl, as is explicitly shown in all of the prior art references. Thus the presently claimed invention is distinguishable over these prior art documents at least on these grounds.

The import of the applicant's amendments to the claims is not to be overlooked as such provides a further basis for distinguishing over all of the prior art documents as well. At pages 3 - 4 of the Office Action, the Examiner states:

"Instead of having the fluid disinfectant as shown in Fig. 8 of Bloom, one of ordinary skill at the time the invention was made to substitute an equivalent solid disinfectant as taught by Lhoste as evidenced by Lhoste2 [...] Moreover, the spray fragrance as shown in Fig. 8 of Bloom can obviously be substitute by an equivalent solid fragrance (13) within into a cavity as taught by Bariou as evidenced by Lhoste2. This modification is mere simple substitution of one known element for another to obtain similar predictable results."

Prior to the further consideration of the following remarks, the Examiner's attention is first directed to the amended claims presented herein. The claims remove the applicant's

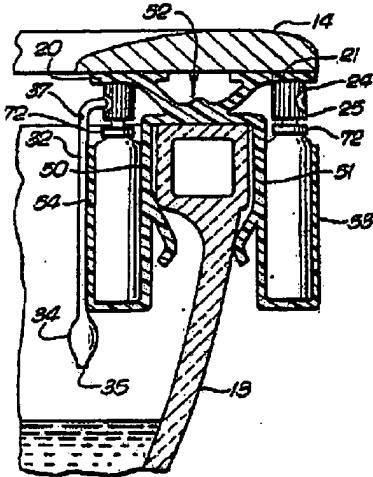
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device and process from the 'toilet bowl', and instead requires that the device be adapted to be installed upon, or be installed upon the cistern (tank) of a toilet bowl, and that (with reference now to pertinent parts of claim 1 amended herein) the "...first dispenser for containing a treatment composition, which first dispenser is immersed in water contained within the cistern between flushes of the toilet bowl ...", while the "second dispenser for containing a fragrancing composition, which, during the use of the device, the fragrancing composition is exterior of the cistern and desirably does not contact water in the cistern ". Such a feature is not suggested or provided by the prior art references.

The applicant traverses the Examiner's characterization of the supposed teaching of Bloom and how it would render the currently claimed invention as being "obvious". The applicant respectfully reminds the Examiner that in determining the differences between the prior art and the claims, the question under 35 USC §103 is not whether the differences themselves would have been obvious, but rather, whether the claimed invention as a whole would have been obvious. A prior art reference must be considered in its entirety, as a whole, including portions that would lead away from the claimed invention. (See MPEP, at §2143.02.) [emphasis added]

As is evident from Bloom, Bloom's device relies wholly upon two pressurized canisters, one of which dispenses a treatment composition to the interior of a toilet bowl, the other of which dispenses a second treatment composition to the air outside of the toilet bowl. Reference is made to the following figure from Bloom:

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It is clear from Bloom's specification that device is operative only in an "active" mode, namely when the actuators of the pressurized dispensers are depressed by the weight of a someone pressing upon the toilet seat (14) which in turn forces elements 20, 21 to activate the valves of the pressurized canisters which only then, dispenses their compositions. Bloom's device and its method of operation would be inoperative if mounted on the cistern of a toilet bowl, viz., it would never be activated in the manner required by Bloom's device and method of use. Further, no part of Bloom's device would be immersed in water; particularly no part of Bloom's device would be immersed for any period of time between flushes of water, as now is required of applicant's claimed 'first dispenser'. Bloom then should be understood and interpreted for only what it actually shows and discloses; any further reading goes beyond the ambit of the actual disclosure provided by the Bloom reference. Thus, skilled artisan, properly reviewing the Bloom reference would understand that any modification of his device, would detract from the proper functioning of his dispensing device which requires at least one, preferably a plurality of pressurized aerosol canisters, which function to release their contents only in a response to pressure and actuation of their respective valves. Bloom clearly fails to provide an apparatus or process whereby at least part of his device is continually

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immersed within the water present in a cistern between flushes of a toilet bowl. Such is however a feature of the present invention. According to the presently claimed invention, the contents of applicant's "first dispenser" operates to continuously dispense the treatment composition to the water present in the cistern which is stored therein between flushes. Such also provides for the formation of a large fluid volume of an aqueous treatment composition which is formed during the intervals between flushes. The formation of such a large fluid volume of the aqueous treatment composition, which is essentially all of the water containing the dissolved or dispersed treatment composition which has been delivered from the "first dispenser", provides a significant benefit in cleaning/disinfecting of the bowl of the toilet bowl which cannot be even remotely similarly provided by the types of devices disclosed by Lhoste, Lhoste2 and Bariou. The devices of these latter three prior art documents are all adapted to be suspended under part of the rim of a toilet bowl. With the use of such devices a liquid treatment composition is only periodically formed, only when the water from a tank/cistern enters the bowl via the usual manifold or holes on the underside of a toilet rim, and thereafter only part of the water a composition contained within such a device, and forms a liquid treatment composition which is nearly immediately thereafter flushed downward into the base of the bowl. Thus, such device provides no benefit to the underside of a toilet bowl's bowl, and really provides any treatment benefits to the completes sidewall of the interior of the bowl. Such devices are nonetheless satisfactory, and in widespread use notwithstanding these technical shortcomings. Such devices are also designed such that the formulations which they contain are ones which have very high dissolution characteristics, such that even during such a momentary contact with the water entering a bowl that a quantity of a liquid treatment composition is formed. Such would be implicitly understood by skilled artisan in the relevant art. The same skilled artisan would not consider the utility of such device wherein the treatment composition would be immersed for any period of time within a body of water, viz., within the water present in a cistern between flushes of a toilet bowl. Thus, it is the applicant's view that the combined consideration of the primary reference to Bloom, with one or more of the secondary references of Lhoste, Bariou and Lhoste2 does not render the currently

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claimed invention as being obvious thereover. The applicant asserts that it remains the applicant's view that the Examiner's proposed modification of Bloom would defeat its principles of operation, and thus does not provide a proper basis for its consideration it alone, with the later references to Lhoste and/or Bariou and/or Lhoste2. It is also the applicants further view that, a skilled artisan in the relevant field would not consider the Lhoste, Baróiu or Lhoste2 devices is having any utility other than as they are explicitly shown; namely, their use and and in-the-bowl (ITB) configuration for the reasons outlined above. None of the prior art references relied upon by the Examiner appear to be relevant to the currently claimed invention, wherein both the article the claims processor required to be used with the cistern of a toilet bowl, and wherein the "first dispenser" is necessarily immersed in the water contained within the cistern which is present between flushes. Furthermore, as described above, the currently claimed invention provides important technical benefits which cannot be provided by any of the prior art references relied upon by the Examiner.

The applicant also reminds the Examiner that "hindsight reconstruction" of the claimed invention remains impermissible. See *In re Kotzab*, 217 F.3d 1365, 1369-70, 55 USPQ2d 1313, 1316-17 (Fed. Cir. 2000). In *In re Fritch*, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992), the Federal Circuit stated:

"It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re Gorman*, 933 F.2d 982, 987, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." (quoting *In re Fine*, 837 F.2d at 1075, 5 USPQ2d at 1600)

See also *W.L. Gore & Associates, Inc. v. Garlock, Inc.* 220 USPQ 303 (CAFC, 1983); *In re Mercier* 185 USPQ 774, 778 (CCPA, 1975); *In re Geiger* 2 USPQ2d 1276 (CAFC, 1987).

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Accordingly, reconsideration of and withdrawal of the rejection of the claim is solicited.

Should the Examiner in charge of this application believe that telephonic communication with the undersigned would meaningfully advance the prosecution of this application, they are invited to call the undersigned at their earliest convenience.

The early issuance of a *Notice of Allowability* is solicited.

**CONDITIONAL AUTHORIZATION FOR FEES**

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, including any extension of time fees, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Respectfully Submitted;

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02. March. 2011

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**CERTIFICATION OF TELEFAX TRANSMISSION:**

I hereby certify that this paper and all attachments thereto is being telefax transmitted to the US Patent and Trademark Office to telefax number: 571 273-8300 on the date shown below:

Parfomak

Andrew N. Parfomak

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